

### III. Citizenship and Residency Requirements

#### A. U.S. Citizenship

The Personal Responsibility Work Opportunity Reconciliation Act of 1996 provides that U.S. Citizens and qualified aliens are eligible for a broader range of public benefits than are nonqualified aliens [Federal PL 104-193]. The Act states that a nonqualified alien is not eligible for Federal, State or Local Public Benefits except in some specific situations. See [http://www.ssa.gov/OP\\_Home/comp2/F104-193.html](http://www.ssa.gov/OP_Home/comp2/F104-193.html) for guidance.

Resources that will provide policy and guidance for specific issues about citizenship are:

Adult Medicaid Manual, Section MA-2504

[<http://info.dhhs.state.nc.us/olm/manuals/dma/abd/man/index.htm>];

Child Care Subsidies Manual, Chapter 4

[<http://info.dhhs.state.nc.us/olm/manuals/dcd/ccs/man/CCSc4-01.htm#TopOfPage>];

Special Assistance for Adults Manual, Section 3240

[<http://info.dhhs.state.nc.us/olm/manuals/doa/sa/man/index.htm>];

DSS Administrative Letter No. Adult and Family Services 03-2002

[[http://info.dhhs.state.nc.us/olm/manuals/doa/aps/adm/aps\\_032002.htm#P10\\_0](http://info.dhhs.state.nc.us/olm/manuals/doa/aps/adm/aps_032002.htm#P10_0)];

Personal Responsibility Work Opportunity Reconciliation Act of 1996 - PL104-193

[[http://www.ssa.gov/OP\\_Home/comp2/F104-193.html](http://www.ssa.gov/OP_Home/comp2/F104-193.html)];

Work First Manual, Section 111

[<http://info.dhhs.state.nc.us/olm/manuals/dss/csm-95/man/index.htm>]; and

Work First User Manual, Section WF-500

[<http://info.dhhs.state.nc.us/olm/manuals/dss/csm-96/man/index.htm>].

#### B. State Residence

An individual must first meet the U.S. citizenship requirements outlined above.

[Federal PL 104-193]

In order to apply for social services, individuals must be residents of North Carolina.

[10A NCAC 71R .0404]

**Unless otherwise defined by federal regulation, a resident of North Carolina is defined as:**

**A person who is living in North Carolina at the time of application with the intent to remain permanently or for an indefinite period;**

**A person who enters North Carolina seeking employment or with a job commitment; or**  
**[NCGS 108A-24 (6)]**

**A child living in North Carolina on other than a temporary basis.**  
**[10A NCAC 71R .0403]**

No requirements as to the duration of the residence should be imposed as a condition to the receipt of services.

Notwithstanding state residence as an eligibility criterion, there are times that county departments are required or allowed to provide services to adults and children who do not meet this definition of resident, e.g., in protective services cases, in some adult placement circumstances, under the terms of the Interstate Compacts, in response to court orders, etc. Whenever services are provided in accordance with State program policy, costs should be reimbursable regardless of a client's status as a state resident.

## **C. County Residence**

**Legal residence in a county determines which county is responsible for social services required by the person.**

**Except as modified below, a person has legal residence in the county in which (s)he resides:**

**A legal residence continues until a new one is acquired, either within or outside this State. When a new legal residence is acquired, all former legal residences terminate.**

**If a person is in a hospital, mental institution, nursing home, boarding home, confinement facility, or similar institution or facility, (s)he does not, solely because of that fact, have legal residence in the county in which the institution or facility is located.**

**A minor has the legal residence of the parent or other relative with whom (s)he resides. If a minor does not reside with a parent or relative and is not in a foster home, hospital, mental institution, nursing home, boarding home, educational institution, confinement facility or similar institution or facility, (s)he has the legal residence of the person with whom (s)he resides.**

**Any other minor has the legal residence of the mother, or if her residence is not known, then the legal residence of his/her father. If his/her mothers or father's residence is not known, the minor is a legal resident of the county in which (s)he is found.**

**[NCGS 153A-257]**

**If two or more county departments of social services disagree regarding the legal residence of a minor in a child abuse, neglect or dependency case, any one of the county departments of social services may refer the issue to the Department of Health and Human Services, Division of Social Services, for resolution. The Director of the Division of Social Services or the Director's designee shall review the pertinent background facts of the case and shall determine which county department of social services shall be responsible for providing protective services and financial support for the minor in question.**

**[NCGS 153A-257]**

Legal residence in a county determines which county is responsible for the provision of services required by an individual to the extent of the availability of services and the individual's eligibility for services; however, there are exceptions to which county is responsible for provision of services that are dictated by specific service policies.

No requirements as to the duration of residence may be imposed as a condition to the receipt of services.

If a person is in a hospital, mental institution, nursing home, confinement facility, or similar institution or facility, his/her legal residence is generally considered the county in which he/she last had legal residence.

An individual may make application for services at any county department of social services.

The county that assumes case management responsibilities is responsible for the cost of providing the services it authorizes for the individual.

When a county DSS has custody or guardianship of a child or guardianship of an adult, that county retains responsibility for service provision and case management regardless of where the individual resides. Additional guidance may be found in the following manuals:

Family Services Manual Chapter VII: Protective Services for Adults Manual, Section AFS-6510 III.B.3.b. (Receiving and Screening Reports)

[\[http://info.dhhs.state.nc.us/olm/manuals/doa/aps/man/AFSs6510-01.htm#P25\\_1981\]](http://info.dhhs.state.nc.us/olm/manuals/doa/aps/man/AFSs6510-01.htm#P25_1981),

Family Services Manual Chapter VII: Protective Services for Adults Manual, Section AFS 6510, Appendix, U. (Adult Protective Services Reciprocal County Protocol)

[\[http://info.dhhs.state.nc.us/olm/manuals/doa/aps/man/AFSs6510xU.pdf\]](http://info.dhhs.state.nc.us/olm/manuals/doa/aps/man/AFSs6510xU.pdf),

Family Services Manual Chapter VIII: Guardianship, Section III. A.5. (Inter-County Cooperation) [[http://info.dhhs.state.nc.us/olm/manuals/doa/gs/man/APSc8-11.htm#P1207\\_111272](http://info.dhhs.state.nc.us/olm/manuals/doa/gs/man/APSc8-11.htm#P1207_111272)], and

Family Services Manual Chapter VIII: Guardianship, Section II.D.1. (Venue) [[http://info.dhhs.state.nc.us/olm/manuals/doa/gs/man/APSc8-05.htm#P471\\_32676](http://info.dhhs.state.nc.us/olm/manuals/doa/gs/man/APSc8-05.htm#P471_32676)].

For additional guidance involving adults, see the following manuals:

Family Services Manual, Volume V, Chapter IX: Adult Care Home Case Management Services, Section 9040, IX [[http://info.dhhs.state.nc.us/olm/manuals/doa/achcm/man/ACHCM-08.htm#P729\\_91750](http://info.dhhs.state.nc.us/olm/manuals/doa/achcm/man/ACHCM-08.htm#P729_91750)] and

Family Services Manual, Volume V, Chapter III: Adult Placement Services, Section 5 (5520), A.2.b. (Residency Requirements) [<http://www.dhhs.state.nc.us/aging/manual/ncfast/AdultServices.pdf>].

For additional guidance involving minors, see the following manuals:

Chapter V: Cross County Issues and Chapter VIII: Protective Services, Conflict of Interest, Section 1410 [<http://info.dhhs.state.nc.us/olm/manuals/dss/csm-45/man/index.htm#TopOfPage>] and

Chapter VIII: Protective Services, Conflict of Interest, Section 1410 (Reciprocal County Protocol) [<http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1410.htm#TopOfPage>].

For additional guidance about applying for child care subsidies, see Child Care Subsidy Services, Chapter 4: Application, Eligibility Determination and Documentation Child Care [<http://info.dhhs.state.nc.us/olm/manuals/dcd/ccs/man/CCSc4-01.htm#TopOfPage>].